

REMARKSStatus of the Application

Claims 28-40 are now pending, a total of 13 claims. Claims 1-27 are hereby canceled. Claims 28-40 have herewith been amended. Claim 28 is in independent form. The amendments to the claims are supported by the application as filed. Accordingly, entry of the amendments is respectfully requested.

The claims are amended and/or cancelled to meet certain points in the Office Action that appear to lack any statutory grounding, and to recite particular embodiments that Applicants, in their business judgment, have determined to be commercially desirable. The claim amendments and/or cancellations have not been submitted for any reason relating to patentability, or to overcome any rejection. Applicants reserve the right to pursue the subject matter of the previously presented, and of the previously or currently cancelled claims in one or more continuing applications.

Paragraph 29

Paragraph 29 of the Office Action states that claim 28 recites the same steps and limitations as previously pending claim 1. Applicants respectfully disagree with this statement and request reconsideration. Although Applicants believe claim 28 to be currently allowable, Applicants request that if any further rejection of claim 28 is to be made, specific reference to the limitations of claim 28 be made.

Reference Cited Against Claim 1

No direct comparison of claim 28 with any references is made in the Office Action. However, claim 28 is compared to claim 1 and a comparison of claim 1 to U.S. Patent number 6,618,707 to Gary (hereinafter, "Gary") is made.

Gary discloses a system for matching orders to buy and sell financial instruments, such as options contracts (Gary at Abstract). Nowhere in the cited sections of Gary is it disclosed or suggested that any market participant both accepts to participate in a market and also agrees to make a market for the same financial instrument.

Accordingly, by reciting “the first command includes an acceptance by the first party to participate in the first market if a second party accepts the first spread and an acceptance by the first party to make the second market if the second party accepts the second spread,” independent claim 28 patentably distinguishes over Gary. Applicants therefore respectfully request withdrawal of the rejection of independent claim 28.

Furthermore, the cited sections of other references discussed in the Office Action, U.S. Patent No. 6,882,985 to Kay (hereinafter, “Kay”) and U.S. Patent No. 6,012,046 to Lupien (hereinafter, “Lupien”) do not teach or suggest such a limitation. Lupien, instead, discusses a crossing network for matching orders. Kay, instead, discusses a method of determining trading fees from a trend line of trades. Therefore, claim 28 patentably distinguishes over the combination of Kay, Lupien, and Gary. Accordingly, Applicants respectfully request withdrawal of all rejections of independent claim 28.

Claims 29-40 depend from claim 28 and are patentable therewith. In addition, they recite further limitations that further distinguish the art. Applicants respectfully request withdrawal of any rejections of these claims also.

Conclusion

Applicants request that the application be passed to issue in due course. The Examiner is urged to telephone Applicants' undersigned representative at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicants petition for any extension of time required to make this reply timely. Kindly charge any additional fee, or credit any surplus due for any reason, to Deposit Account No. 50-3938, Order No. 01-1040.

Respectfully submitted,

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